

ATTACHMENT 46

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

5 SURGICAL INSTRUMENT SERVICE)
COMPANY, INC.,) Case No.:
) 3:21-cv-03496-VC
6 Plaintiff,)
) Lead Case No.:
7 vs.) 3:21-cv-03825-VC
)
8 INTUITIVE SURGICAL, INC.,)
)
9 Defendant)
-----)
10 IN RE: DA VINCI SURGICAL ROBOT)
ANTITRUST LITIGATION)
-----)
11 THIS DOCUMENT RELATES TO:)
ALL ACTIONS)
-----)

*** CONFIDENTIAL ATTORNEYS EYES ONLY ***

30(b)(6) DEPOSITION OF:

KEITH ROBERT JOHNSON

THURSDAY, OCTOBER 27, 2022

9:06 a.m. Mountain Standard Time

21 | REPORTED BY:

Vickie Blair

23 CSR No. 8940, RPR-CRR

24 JOB NO. 5539883

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1	Repair, LLC, and Benjamin Biomedical, Inc.	09:22:02
2	So let's start first with Rebotix Repair,	09:22:06
3	LLC.	09:22:10
4	Does SIS currently have any sort of	09:22:12
5	business relationship with Rebotix?	09:22:15
6	MR. VAN HOVEN: Object to form.	09:22:18
7	MR. CHAPUT: You can go ahead and answer.	09:22:23
8	THE WITNESS: Yes.	09:22:26
9	BY MR. CHAPUT:	09:22:26
10	Q What is SIS's current business	09:22:26
11	relationship with Rebotix?	09:22:29
12	A Let me -- let me step back and ask you one	09:22:39
13	quick question.	09:22:41
14	Rebotix Repair, R-e-b-o-t-i-x is the	09:22:41
15	company that we're referring to?	09:22:46
16	Q That's correct.	09:22:47
17	A Okay. Let me step back then, I'm sorry.	09:22:48
18	We currently don't do any business with	09:22:51
19	Rebotix Repair.	09:22:53
20	Q Okay. Thank you for that clarification.	09:22:54
21	A I apologize for that.	09:22:56
22	Q No problem.	09:22:57
23	And so my first set of questions are going	09:22:58
24	to focus just on that one company --	09:23:01
25	A Okay.	09:23:01

1	Q	-- Rebotix Repair, just so we're clear.	09:23:04
2		Did SIS previously have a business	09:23:06
3		relationship with Rebotix?	09:23:10
4	A	Yes.	09:23:11
5	Q	And what was the nature of SIS's	09:23:11
6		relationship with Rebotix?	09:23:14
7	A	We were working with them to offer a	09:23:15
8		repair program on Intuitive EndoWrists.	09:23:22
9	Q	When did SIS's relationship with Rebotix	09:23:27
10		end?	09:23:31
11	A	I don't think we would say that it's	09:23:31
12		ended, I would say that, because of practices from	09:23:41
13		Intuitive, it was -- it was shut down, and so we	09:23:46
14		haven't been doing that business currently in the U.S.	09:23:49
15		market.	09:23:54
16	Q	Is SIS doing business with Rebotix outside	09:23:54
17		of the U.S. market currently?	09:24:00
18	A	No.	09:24:02
19	Q	And, when you say that the business with	09:24:02
20		Rebotix was "shut down," what do you mean by that?	09:24:11
21	A	We had started providing repair services	09:24:14
22		to facilities in the U.S. on EndoWrists, and through	09:24:20
23		the practice of -- practices of Intuitive of letters	09:24:25
24		and monopolistic practices and threats to hospitals,	09:24:28
25		the -- the program -- we, as an organization, decided	09:24:33

1	Rebotix?	09:26:02
2	MR. VAN HOVEN: Object to form.	09:26:02
3	THE WITNESS: I don't know that I can	09:26:03
4	answer that, I would -- I would say that we would look	09:26:09
5	at all options for a supplier or partner to work with	09:26:12
6	on that program.	09:26:15
7	BY MR. CHAPUT:	09:26:16
8	Q Does SIS have the capability to run an	09:26:18
9	EndoWrist repair program on its own?	09:26:22
10	MR. VAN HOVEN: Object to form.	09:26:28
11	THE WITNESS: I would -- I -- I guess	09:26:28
12	that's kind of a -- if I understand the question -- can	09:26:44
13	you ask me that question again?	09:26:55
14	BY MR. CHAPUT:	09:26:56
15	Q Sure.	09:26:56
16	Does SIS have the capability to run an	09:26:56
17	EndoWrist repair program on its own?	09:27:00
18	MR. VAN HOVEN: Object to form.	09:27:02
19	THE WITNESS: Not currently.	09:27:12
20	BY MR. CHAPUT:	09:27:17
21	Q Would you describe for me the -- the	09:27:19
22	EndoWrist repair program that SIS was previously	09:27:24
23	running with Rebotix?	09:27:27
24	A We were working with hospitals to repair	09:27:33
25	their EndoWrists and prolong the useful life of those	09:27:38

1 and independent studies that they did, we felt really 09:43:18
2 good about the data that had been collected and the 09:43:25
3 testing that was done by the independent organizations 09:43:27
4 and felt really good about that, taking into 09:43:34
5 consideration the relationship we had with them, the 09:43:37
6 longevity of the relationship, and the data testing 09:43:39
7 they had, we felt really good, so we felt good about 09:43:42
8 that process. 09:43:47

9 BY MR. CHAPUT: 09:43:47

10 Q Apart from reading the testing and 09:43:50
11 independent studies that Rebotix provided to SIS, did 09:43:51
12 SIS take any other steps to confirm that the chip 09:43:59
13 replacement process did not impacts the EndoWrist's 09:44:01
14 functionality? 09:44:11

15 A Not that I know of. 09:44:12

16 Q Did SIS do anything to confirm that the 09:44:13
17 chip replacement process did not impact the EndoWrist's 09:44:15
18 safety? 09:44:19

19 MR. VAN HOVEN: Objection to form. 09:44:21

20 THE WITNESS: The studies that we saw 09:44:32
21 provided us the information that we felt good about the 09:44:34
22 safety and functionality of those devices. 09:44:37

23 BY MR. CHAPUT: 09:44:39

24 Q So apart from reading the testing and the 09:44:39
25 independent studies that Rebotix provided to SIS, SIS 09:44:45

1 did not take any other steps to confirm that the chip 09:44:47
2 replacement process did not impact the EndoWrist's 09:44:51
3 safety? 09:44:53
4 A Not that I'm aware of. 09:45:01
5 Q Did SIS ever enter into a written 09:45:06
6 agreement with Rebotix regarding this EndoWrist 09:45:09
7 service? 09:45:12
8 A I believe that we did. 09:45:21
9 Q And when -- when would that have happened? 09:45:22
10 A If I remember correctly, it was October of 09:45:30
11 '19. 09:45:32
12 Q Apart from the EndoWrist business that 09:45:50
13 you've been describing, has SIS had any other business 09:45:53
14 relationship with Rebotix specifically? 09:45:55
15 A Not that I know of. 09:46:01
16 Q Can you -- can you walk me through how the 09:46:04
17 Rebotix Repair service worked from the SIS customer's 09:46:14
18 perspective, please. 09:46:18
19 A Can -- can you elaborate what you mean? 09:46:19
20 Q Sure. 09:46:26
21 So how did a customer go about having a -- 09:46:26
22 an EndoWrist repaired through this SIS Rebotix program 09:46:30
23 that you've described? 09:46:36
24 A So the nature of our business, we're a 09:46:36
25 national company, so we work in all the regions around 09:46:44

1 the country, so we have team members and reps on the 09:46:48
2 ground, and we work with hospitals on a daily basis 09:46:51
3 picking up items and devices in need of service, 09:46:54
4 getting those to one of our labs, they are serviced and 09:46:57
5 then returned to the facility. 09:47:02

6 09:47:03
7 So this Rebotix program that we were 09:47:03
8 providing fell right in line with what we were doing 09:47:05
9 every day. 09:47:10

10 Q Was the service performed at one of SIS's 09:47:10
11 labs? 09:47:16

12 09:47:18
13 MR. VAN HOVEN: Objection to form. 09:47:18

14 THE WITNESS: We were -- every discussion 09:47:19
15 we had was about bringing it in-house and doing it 09:47:27
16 ourselves. In fact, a couple members of their team 09:47:29
17 came to Chicago and worked in our lab with us, and 09:47:37
18 our -- some of our technicians that were going to be 09:47:41
19 involved in this program were part of that, so we were 09:47:44
20 absolutely going to be doing this service in-house. 09:47:48

21 BY MR. CHAPUT: 09:47:51

22 Q Okay. So you said that you were "going to 09:47:51
23 be doing it in-house." 09:47:53

24 09:47:54
25 My question was: Did SIS ever actually 09:47:54
26 perform the service in-house? 09:47:57

27 A No. 09:47:58

28 Q So for all of the EndoWrist repairs that 09:48:00

1 SIS facilitated, those repairs were actually performed 09:48:05
2 by Rebotix; correct? 09:48:09
3 MR. VAN HOVEN: Objection to form. 09:48:11
4 THE WITNESS: Correct. 09:48:12
5 BY MR. CHAPUT: 09:48:23
6 Q And those were performed at Rebotix's 09:48:23
7 facility and not SIS's? 09:48:27
8 A I don't remember specifically if, when 09:48:40
9 some of the Rebotix team was in our Chicago lab, if any 09:48:42
10 repairs were done, but to the best of my knowledge I 09:48:46
11 believe they were all done in the Rebotix's facility. 09:48:52
12 Q Was SIS's arrangement with Rebotix 09:48:54
13 exclusive or did Rebotix also have other distributors 09:48:58
14 it was working with? 09:49:01
15 A I think initially they had exclusivity; 09:49:13
16 when we came on board, I don't remember if it was 09:49:19
17 exclusively or not. 09:49:22
18 Q Did Rebotix source some of its own 09:49:22
19 customers, as well, or did its customers come 09:49:25
20 exclusively through SIS? 09:49:28
21 A Rebotix had some of their own customers. 09:49:32
22 Q How did SIS and Rebotix end up entering 09:49:44
23 into this -- this relationship around the EndoWrist 09:49:52
24 repair business? 09:49:55
25 A Like I had stated before, we have a 09:49:56

1 longstanding relationship with Benjamin Biomedical. 09:50:00
2 We -- Greg and I were attending an AAMI conference, and 09:50:07
3 Chris and his team were there from Rebotix, and they 09:50:10
4 were presenting this program, and Greg and I spent some 09:50:15
5 time with them there, and that was the -- when we 09:50:20
6 learned about it, that was what sparked that trip when 09:50:23
7 Greg and I went to Florida to actually see this process 09:50:27
8 and this program. 09:50:31
9 Q What's an AAMI conference? 09:50:33
10 A I do not remember what the acronym stands 09:50:36
11 for, but it's basically one of the national conferences 09:50:39
12 for biomedical engineering. 09:50:42
13 Q And how is AAMI spelled? 09:50:45
14 A A-A-M-I. 09:50:47
15 Q And when was the AAMI conference when you 09:50:48
16 met with Rebotix and heard about their EndoWrist 09:50:58
17 business? 09:51:00
18 A It would have -- it would have been in the 09:51:05
19 spring of '19, and we go to so many conferences, so 09:51:07
20 I'll apologize and tell you I don't remember what 09:51:10
21 month. I believe it was June of '19. 09:51:14
22 Q How did the pricing work for the EndoWrist 09:51:19
23 repair service with Rebotix? 09:51:26
24 A What aspect of pricing? Customer pricing? 09:51:35
25 Q Let's start with customer pricing, yes. 09:51:39

1	Q	Does SIS have plans to work with Restore	10:04:06
2		on a repair program in the future?	10:04:13
3	A	Yes.	10:04:15
4	Q	Under what circumstances does SIS plan to	10:04:17
5		work with Restore program -- excuse me.	10:04:25
6		Under what circumstances does SIS plan to	10:04:27
7		work with Restore on a repair program in the future?	10:04:30
8	A	We are working with Restore to develop a	10:04:34
9		repair program for the Xi instruments.	10:04:41
10	Q	Does SIS plan to work with Restore on a	10:04:45
11		repair program for Si instruments at any point in time?	10:04:50
12	A	Based on the current status of Si robots	10:05:04
13		in the United States, we don't see a huge value in	10:05:06
14		continuing that endeavor.	10:05:09
15	Q	And, when you say "the current status,"	10:05:10
16		are you referring to the number of Si robots that are	10:05:18
17		currently in service?	10:05:21
18	A	Correct.	10:05:24
19	Q	What role does SIS play in developing a	10:05:24
20		repair program for Xi instruments with Restore?	10:05:38
21	A	We are providing financial support in the	10:05:51
22		R&D, we are also providing help in the testing process,	10:05:53
23		bringing customer opinions and expertise to help in	10:06:07
24		that process.	10:06:13
25	Q	What sort of help is SIS providing in the	10:06:14

1 testing process? 10:06:18

2 A I'm not involved in the engineering and 10:06:18

3 the technical side of that, so what I'm personally 10:06:26

4 providing is more of a customer feedback, customer 10:06:29

5 thoughts, customer interest in that program, and what 10:06:35

6 it would mean to health care. 10:06:38

7 Q Describe for me the customer feedback and 10:06:39

8 customer thoughts, customer interests in that program, 10:06:47

9 please. 10:06:50

10 A How much time do we have? 10:06:50

11 Q Describe it at a high level to start with, 10:06:54

12 and we can -- 10:06:58

13 A Since this program started, the interest 10:07:01

14 from the hospital is monumental, through the roof. 10:07:03

15 The -- the interest in saving and reducing costs on 10:07:11

16 robotic surgery in the industry is something I've never 10:07:15

17 seen before in my 25 years of being in the surgical 10:07:17

18 business. 10:07:22

19 Q What hospitals have you spoken with about 10:07:23

20 the Xi program? 10:07:27

21 A Would you like me to list them? 10:07:29

22 Q Yes, please. 10:07:35

23 A This will be from the top of my head, so 10:07:36

24 I'll do the best I can, but well over -- the meetings 10:07:40

25 that we've had represent well over a thousand 10:07:46

1 hospitals, probably. 10:07:48

2 Facility level, I'll just start to kind of 10:07:53

3 name them off regionally. Legacy Health system in 10:07:56

4 Portland, Oregon; Providence health system in the West 10:08:00

5 Coast; Sutter Health; Kaiser Permanente; memorial care; 10:08:04

6 the UC system in California; Banner Health System; 10:08:16

7 Honor Health; Baylor Scott & White in Texas; the 10:08:21

8 university health systems across the country, from 10:08:31

9 Michigan to Duke to North Carolina; Mayo Clinic; 10:08:35

10 Cleveland Clinic; Advocate Aurora; Lahey Health System; 10:08:50

11 Boston Children's Medical Center. 10:08:55

12 I can't believe I'm remembering all this 10:08:57

13 off the top of my head. 10:09:00

14 Piedmont health system, Grady in Atlanta, 10:09:02

15 Johns Hopkins. 10:09:13

16 That's the bulk of the direct hospitals 10:09:14

17 that I can recall having direct conversations with; 10:09:25

18 there's obviously much more than that. 10:09:27

19 And then, in addition to that, all the 10:09:29

20 Vizient conversations we've had, I've presented to all 10:09:33

21 four regions of Vizient, which basically covers well 10:09:41

22 over 2,000 hospitals in the United States. 10:09:45

23 Q Have you spoken with any of those 10:09:48

24 hospitals about the need for an EndoWrist repair 10:10:09

25 program to have FDA clearance? 10:10:11

1	A	I don't know if I understand what you're	10:10:20
2		asking me.	10:10:21
3	Q	Have any of those hospitals told you that	10:10:22
4		they would be willing to purchase EndoWrist repair	10:10:29
5		services that were not cleared by the FT -- FDA?	10:10:33
6		MR. VAN HOVEN: Objection to form.	10:10:40
7		MR. SNYDER: Objection to form.	10:10:42
8		THE WITNESS: So I've been in the repair	10:10:42
9		business for well over 20 years, repairs don't require	10:10:44
10		FDA clearance, and to my recollection, nobody in any of	10:10:49
11		my conversations every brought up FDA clearance on the	10:10:58
12		repair.	10:11:01
13		BY MR. CHAPUT:	10:11:02
14	Q	Does the Xi -- maybe let's -- let's step	10:11:02
15		back.	10:11:05
16		Does the Xi repair business that SIS is	10:11:06
17		exploring with Restore involve extending the number of	10:11:12
18		lives that an EndoWrist can be used for?	10:11:18
19	A	We are currently working on developing a	10:11:20
20		program to extend the life of Xi instruments.	10:11:31
21	Q	And is that the program that you have	10:11:34
22		spoken with hospitals about?	10:11:36
23	A	The initial conversations we had with	10:11:47
24		hospitals was around the repair program of Si.	10:11:49
25		We then went to our recovery program,	10:11:57

1 which does not extend the life of the device, and we 10:12:00
2 have not talked about the Xi repair program because we 10:12:03
3 do not have those capabilities as of today. 10:12:08
4 Q So when you're describing the 10:12:10
5 conversations that you've had with that -- that long 10:12:12
6 list of hospitals, were those conversations specific to 10:12:15
7 the Si repair program or the recovery program? 10:12:20
8 A A little of both. Over the last 18 months 10:12:26
9 or so, all the conversations are around recovery and, 10:12:31
10 like we had said, before there's not a lot of Si robots 10:12:38
11 in the U.S., as you know, so that conversation is 10:12:42
12 pretty much expired. 10:12:45
13 MR. VAN HOVEN: Counsel, we're at about a 10:13:00
14 little over an hour, maybe a break in the -- now or the 10:13:03
15 next a few minutes. 10:13:08
16 MR. CHAPUT: Yeah, a few minutes we should 10:13:09
17 be able to take one. 10:13:13
18 BY MR. CHAPUT:
19 Q So, Mr. Johnson, with respect to SIS's 10:13:19
20 efforts with Restore to develop this Xi extended life 10:13:28
21 program, what is the timeline on that effort? When 10:13:32
22 does SIS expect for that to be available to provide to 10:13:37
23 customers? 10:13:41
24 MR. VAN HOVEN: Objection to form. 10:13:43
25 THE WITNESS: I don't know that I have a 10:13:49

1 So there were a number of original 10:34:01
2 conversations that people would say, "We are not 10:34:04
3 allowed to repair our instruments, Intuitive does not 10:34:08
4 allow us to do that, even though we own the devices, 10:34:11
5 our contract does not allow us to repair them." 10:34:13
6 So we were working through a lot of that 10:34:20
7 with legal and risk at a lot of these big 10:34:22
8 organizations. 10:34:24
9 The recovery program, people are willing 10:34:24
10 to talk about because it doesn't -- like, it doesn't 10:34:27
11 affect -- it's not a repair. 10:34:31
12 BY MR. CHAPUT: 10:34:42
13 Q And even though the recovery program is 10:34:43
14 not a repair, there are still customers who have 10:34:46
15 decided not to use that program; is that -- is that 10:34:50
16 correct? Am I understanding that correctly? 10:34:55
17 A I would say that's correct. 10:34:57
18 Q Is SIS seeking damages for its recovery 10:35:07
19 program in this case? 10:35:15
20 A I don't know the specifics of the damages, 10:35:26
21 but I would say that our interest is -- is the lack of 10:35:30
22 business across all of our robotic programs against 10:35:36
23 Intuitive. 10:35:43
24 Q Does SIS have any robotic programs, other 10:35:47
25 than those that we've already discussed today? 10:35:53

1	A	No.	10:35:59
2	Q	Does SIS have any sort of business	10:35:59
3		relationship with MediVision, Inc.?	10:36:09
4	A	We did.	10:36:15
5	Q	What was SIS's with MediVision?	10:36:16
6	A	MediVision is owned -- the ownership of	10:36:20
7		MediVision is the same ownership of Restore, MediVision	10:36:31
8		is a repair company, so they did some work for us on	10:36:35
9		our core business on the repair of flexible and rigid	10:36:38
10		endoscopes.	10:36:43
11	Q	Did that work have anything to do with	10:36:44
12		da Vinci assisted surgeries?	10:36:50
13	A	Just to clarify, did our -- does our	10:36:59
14		MediVision relationship have anything to do a with	10:37:04
15		robots?	10:37:06
16	Q	Yes, I can make the question more clear.	10:37:06
17		Did SIS's work with MediVision have	10:37:11
18		anything to do with robotic assisted surgeries?	10:37:14
19	A	Outside of the relationship? I think, if	10:37:19
20		I understand your question correctly, the answer would	10:37:23
21		be no.	10:37:25
22	Q	Right. So setting aside SIS's	10:37:25
23		relationship with Restore, and it's just focused	10:37:31
24		exclusively on MediVision --	10:37:35
25	A	Okay.	10:37:35

1	Q	Had corporate compliance and legal	10:47:31
2		reviewed the documents that you attached to your	10:47:34
3		September 25, 2019, email?	10:47:38
4	A	I was not involved in that internal	10:47:40
5		process. I was given these documents by Greg Posdal,	10:47:47
6		so at that point, I assumed that the legal stuff that	10:47:54
7		needed to be done on SIS's side had been completed.	10:47:58
8	Q	I'd like for you to turn, please, to the	10:48:00
9		first attachment here, which has the ending Bates 119,	10:48:05
10		and the title of this is "da Vinci EndoWrist Repair	10:48:09
11		FAQs." This document goes through the page ending 123.	10:48:13
12		Do you recognize the da Vinci EndoWrist	10:48:22
13		repair FAQs document?	10:48:25
14	A	Yes.	10:48:27
15	Q	Who at SIS wrote the da Vinci EndoWrist	10:48:27
16		repair FAQs?	10:48:33
17	A	This document was not written by SIS.	10:48:43
18	Q	Who wrote it?	10:48:46
19	A	This was given to us by Rebotix.	10:48:46
20	Q	Did SIS review the da Vinci EndoWrist	10:48:58
21		repair FAQs before sending them to customers?	10:49:02
22	A	Yes.	10:49:07
23	Q	Did SI- -- who -- who at SIS re- -- excuse	10:49:08
24		me.	10:49:14
25		Who at SIS reviewed the da Vinci EndoWrist	10:49:14

1	repair FAQs before they were sent to SIS's customers?	10:49:18
2	A Greg Posdal, myself, and one or two	10:49:31
3	members of our marketing team that added the logo, the	10:49:33
4	SIS logos and things like that.	10:49:38
5	Q Does SIS make any changes to the FAQs?	10:49:41
6	A Other than adding our name and our logo?	10:49:48
7	Q Sure, other than adding your name and	10:49:52
8	logo, did SIS make any changes to the FAQs?	10:49:54
9	A Not that I know of.	10:49:57
10	Q Did SIS confirm the accuracy of the	10:49:59
11	statements that appeared in the FAQs?	10:50:02
12	A I know that Greg spoke at length with	10:50:13
13	Chris Gibson and his team about all of this testing	10:50:16
14	data and all of this information prior to us providing	10:50:21
15	this to our customers.	10:50:24
16	Q Apart from Greg's conversations with Chris	10:50:26
17	Gibson, did SIS do anything to confirm the accuracy of	10:50:31
18	the statements that appeared in the FAQs?	10:50:35
19	A Not that I'm aware of.	10:50:44
20	Q You can turn to the second page of the	10:50:46
21	document first, there's a question at the top (as	10:50:50
22	read):	10:50:50
23	Can you send me your certification,	10:50:51
24	slash, FDA approval?	10:50:54
25	Do you see that section?	10:50:56

1	A	Can you give me a page number?	10:50:58
2	Q	Sure.	10:50:59
3		120.	10:51:00
4	A	Okay.	10:51:13
5	Q	And the response to that question is (as	10:51:13
6		read):	10:51:13
7		The FDA does not regulate, nor	10:51:15
8		certify repairs.	10:51:18
9		Correct?	10:51:20
10	A	Correct.	10:51:22
11	Q	And so SIS had decided that the service it	10:51:23
12		was offering for EndoWrist was a repair, not a	10:51:26
13		reprocessing; is that right?	10:51:28
14		MR. VAN HOVEN: Objection to form.	10:51:30
15		THE WITNESS: Correct.	10:51:37
16		BY MR. CHAPUT:	10:51:37
17	Q	Who at SIS decided that was correct?	10:51:37
18	A	Greg Posdal.	10:51:39
19	Q	And how did SIS reach the conclusion that	10:51:48
20		the service that was being offered was a repair and not	10:51:50
21		reprocessing?	10:51:54
22		MR. VAN HOVEN: Objection to form.	10:51:55
23		THE WITNESS: The Posdal family has been	10:52:01
24		in the repair business for 50 years, and, based on that	10:52:03
25		expertise and the knowledge that he has and the data	10:52:06

1	provided, we felt that it was a repair.	10:52:11
2	BY MR. CHAPUT:	10:52:16
3	Q Apart from the Posdal family's background	10:52:20
4	and the information provided by Rebotix, did SIS	10:52:27
5	perform any other analysis of whether the service it	10:52:33
6	was offering was a repair and not reprocessing?	10:52:36
7	MR. VAN HOVEN: Objection to form.	10:52:39
8	THE WITNESS: Not that I'm aware of.	10:52:48
9	BY MR. CHAPUT:	10:52:50
10	Q In 2019 when SIS entered into its	10:52:52
11	relationship with Rebotix, was it aware that a Rebotix	10:52:56
12	entity submitted a 510K application to FDA in 2014	10:52:59
13	regarding the Rebotix interceptor chip?	10:53:05
14	A I don't recall being told the specific	10:53:13
15	dates, but we were made aware of the fact that they had	10:53:16
16	filed a 510K.	10:53:21
17	Q And just to make -- to make sure I'm	10:53:23
18	clear, the interceptor chip is the trade name that	10:53:26
19	Rebotix used for the chip that it -- it places to	10:53:30
20	circumvent the use counter; is that right?	10:53:34
21	MR. VAN HOVEN: Objection to form.	10:53:37
22	THE WITNESS: I don't know that I'm	10:53:42
23	familiar with the word "interceptor," I just know that	10:53:43
24	they had filed a 510K to be able to rechip the devices.	10:53:46
25	///	///

1	than what exists in an original EndoWrist; correct?	10:56:26
2	A I believe so, yes.	10:56:28
3	Q And I think you described that the	10:56:38
4	replacement chip is -- is added on top of the existing	10:56:40
5	chip in an EndoWrist device; is that right?	10:56:44
6	A The Rebotix chip?	10:56:51
7	Q Correct.	10:56:53
8	A Yes, I believe that to be true.	10:56:55
9	Q If you look in the fourth line of that	10:57:03
10	same paragraph, there's a reference to the serviced	10:57:06
11	instruments meeting the quality and functional	10:57:14
12	requirements of a new device.	10:57:17
13	Do you see that?	10:57:20
14	A Yes.	10:57:20
15	Q How did SIS confirm that the serviced	10:57:21
16	EndoWrists met the quality and functional requirements	10:57:26
17	of a new device?	10:57:30
18	A We relied on the expertise of our	10:57:31
19	technical partner, Rebotix.	10:57:39
20	Q Did SIS have access to the specifications	10:57:42
21	or design files for the EndoWrist devices?	10:57:52
22	MR. VAN HOVEN: Objection to form.	10:57:54
23	THE WITNESS: I'm not a technical guy, so	10:57:56
24	I would -- so I was not involved or made privy to that	10:58:03
25	information, so I couldn't answer that question.	10:58:07

1 BY MR. CHAPUT: 10:58:09
2 Q Who would be able to answer that question? 10:58:09
3 A Greg Posdal. 10:58:10
4 Q If you would turn forward to the page 10:58:13
5 ending in 123, please, in the -- this is under the 10:58:30
6 heading "Additional information," and there's a -- the 10:58:44
7 first bullet point there is (as read): 10:58:46
8 EndoWrist functionality and safety 10:58:47
9 are not affected by the repair. 10:58:49
10 Do you see that section? 10:58:52
11 MR. VAN HOVEN: And, Mr. Johnson, feel 10:58:53
12 free to look at the document and understand the context 10:58:55
13 before you jump into isolated bullet points. 10:58:56
14 THE WITNESS: Okay, I'm ready. 10:59:24
15 Can you answer that question again, 10:59:26
16 please? 10:59:28
17 BY MR. CHAPUT: 10:59:28
18 Q Yes. 10:59:29
19 So, looking at the second bullet under the 10:59:29
20 functionality and safety bullet, there's a reference to 10:59:35
21 extensive analysis and formal testing. 10:59:37
22 Do you see that? 10:59:41
23 A Yes. 10:59:41
24 Q Did SIS perform that testing? 10:59:41
25 A No. 10:59:51

1	Q	Did SIS have any role in the testing	10:59:51
2		described in that bullet?	10:59:54
3	A	No.	10:59:58
4	Q	Did SIS have any oversight over the	10:59:58
5		testing that was referred to in that bullet?	11:00:03
6	A	No.	11:00:12
7	Q	Did SIS have access to the complete	11:00:12
8		results of the testing described in this section?	11:00:17
9	A	I do believe that Greg did have	11:00:25
10		extension -- extensive -- looked into this when he was	11:00:30
11		in the facility and the lab and went through most of	11:00:34
12		this stuff. I did not personally, but that was	11:00:37
13		something that Greg did.	11:00:39
14	Q	And you don't know one way or the other	11:00:42
15		whether he was given access to the complete results;	11:00:44
16		correct?	11:00:51
17	A	I -- I do believe we were shown	11:00:51
18		everything, all the testing results.	11:00:56
19	Q	Moving down a few bullets, this is three	11:00:57
20		bullets up from the bottom of the page, there's a	11:01:04
21		statement (as read):	11:01:06
22		The service process is performed	11:01:06
23		under a formal quality control system.	11:01:09
24		Do you see that bullet?	11:01:12
25	A	Yes.	11:01:12

1	Q	Was that SIS's formal quality control	11:01:13
2		system?	11:01:18
3	A	No.	11:01:22
4	Q	And there's a reference in that same	11:01:22
5		sentence to "formal procedures."	11:01:25
6		Were those SIS's procedures?	11:01:26
7	A	No, those were Rebotix's procedures.	11:01:29
8	Q	Moving down to the next bullet, it begins	11:01:36
9		(as read):	11:01:36
10		SIS provides continuing technical	11:01:39
11		support to ensure the final quality of the	11:01:42
12		serviced instruments.	11:01:44
13		Do you see that bullet?	11:01:46
14	A	Yes.	11:01:47
15	Q	Who at SIS provided that technical	11:01:47
16		support?	11:01:50
17	A	That support was provided by Rebotix.	11:01:59
18	Q	Moving to the end of this bullet that	11:02:04
19		we're looking at, there's a reference to a formal	11:02:07
20		surveillance system for field issues.	11:02:10
21		Do you see that?	11:02:23
22	A	Okay. Yes.	11:02:23
23	Q	Did someone at SIS run that formal	11:02:24
24		surveillance system?	11:02:28
25	A	I am not familiar with the formal	11:02:46

1 surveillance system. 11:02:48

2 Q Let's move on to the next document in this 11:02:51

3 set, this is the document ending 124, it's just a 11:02:55

4 one-page document with the title on the left side of 11:02:58

5 the document "da Vinci EndoWrist Repairs." 11:03:01

6 Do you -- do you recognize this document? 11:03:07

7 A Yes. 11:03:19

8 Q Who at SIS wrote the da Vinci EndoWrist 11:03:20

9 repairs document? 11:03:26

10 A I don't know if I could give you a 11:03:26

11 specific name of who wrote this, but Greg and I were 11:03:40

12 involved in the production. 11:03:43

13 Q Was the content for the da Vinci EndoWrist 11:03:43

14 repairs document also provided by Rebotix? 11:03:48

15 A I would say some of it, but I wouldn't 11:03:54

16 think all of it. 11:04:04

17 Q What content would Si have provided? 11:04:06

18 A On any of the documents, we would have 11:04:11

19 provided more of the data around the customer service 11:04:20

20 side to the hospital, so any of the hospital process 11:04:22

21 would come from us. 11:04:26

22 The technical data, the testing data would 11:04:28

23 have come from the robotic -- the Rebotix testing. 11:04:32

24 Q Okay. So just looking specifically at the 11:04:35

25 document with the Bates number 124, which is just a 11:04:39

1 one-page document, on this page, what of the material 11:04:42
2 would SIS have provided as opposed to Rebotix? 11:04:46
3 A I don't have that knowledge, I'm not sure. 11:04:59
4 Q Looking at the list of five bullet points 11:05:13
5 under the heading "Important facts," is that 11:05:17
6 information that Rebotix would have provided? 11:05:20
7 A I would assume it was provided by Rebotix. 11:05:23
8 Q In the second bullet, it reads (as read): 11:05:49
9 The repair of a da Vinci EndoWrist 11:05:53
10 does not alter the intended use, method of 11:05:55
11 use, functionality, or performance of the 11:05:58
12 device in any way. 11:06:00
13 What did SIS do to confirm the accuracy of 11:06:03
14 that statement? 11:06:05
15 MR. VAN HOVEN: Objection to form. 11:06:07
16 THE WITNESS: Like I had stated earlier, 11:06:13
17 based on the relationship with Benjamin Biomedical and 11:06:15
18 Rebotix, we had all belief in their testing and the 11:06:20
19 longstanding relationship that the data we were 11:06:24
20 provided was correct. 11:06:26
21 BY MR. CHAPUT: 11:06:28
22 Q Apart from SIS's existing relationship 11:06:38
23 with Benjamin Biomedical and the data that Rebotix 11:06:40
24 provided to SIS, it did nothing to confirm the accuracy 11:06:46
25 of the second bullet on page 124; is that correct? 11:06:49

1	MR. VAN HOVEN: Objection to form.	11:06:54
2	THE WITNESS: I would say initially that	11:06:54
3	is correct; but, after working the program, having	11:07:12
4	conversations with customers, and understanding, I	11:07:14
5	would have been very comfortable to say that -- that	11:07:19
6	that statement is a hundred percent the truth from our	11:07:22
7	experience of working with customers.	11:07:25
8	BY MR. CHAPUT:	11:07:26
9	Q And you're referring to the somewhere	11:07:29
10	between 30 and 50 repairs that SIS facilitated for	11:07:33
11	customers; is that right?	11:07:36
12	A 30 to 50 hospitals.	11:07:38
13	Q How many repairs total did SIS facilitate?	11:07:40
14	A Oh, boy, on the Si repair program?	11:07:45
15	Q Correct.	11:07:51
16	A I don't know that I have that number.	11:07:51
17	Q Let's look at the third bullet, please (as	11:07:57
18	read):	11:07:57
19	The da Vinci robot interacts with	11:07:59
20	the repaired EndoWrist identically and the	11:08:02
21	robot cannot be affected by the repaired	11:08:05
22	device in any way.	11:08:07
23	Do you see that statement?	11:08:09
24	A Yes.	11:08:09
25	Q Apart from SIS's existing relationship	11:08:10

1	with Benjamin Biomedical and the data that Rebotix	11:08:14
2	provided to SIS, did SIS do anything to confirm the	11:08:17
3	accuracy of that third bullet?	11:08:22
4	MR. VAN HOVEN: Objection to form.	11:08:23
5	THE WITNESS: Not that I know of.	11:08:37
6	BY MR. CHAPUT:	11:08:37
7	Q Looking at the fifth bullet, it reads (as	11:08:46
8	read):	11:08:46
9	A repaired EndoWrist is not an	11:08:50
10	alternative or replacement device, it is	11:08:52
11	an original da Vinci manufactured device	11:08:54
12	that has been repaired to original	11:08:57
13	specifications.	11:09:00
14	Apart from SIS's existing relationship	11:09:00
15	with Benjamin Biomedical and the data that Rebotix	11:09:02
16	provided to SIS, did SIS do anything to confirm the	11:09:05
17	accuracy of the fifth bullet?	11:09:08
18	A I believe that falls under our normal	11:09:17
19	repair process that we have stood behind for the 50	11:09:19
20	years we've been in a business that a repaired device	11:09:24
21	is repaired back to its original specifications.	11:09:27
22	Q My question is a bit different, though,	11:09:33
23	Mr. Johnson, which is whether SIS did anything to	11:09:39
24	confirm that that statement was accurate specifically	11:09:41
25	with respect to EndoWrist devices?	11:09:44

1	MR. VAN HOVEN: Objection to form.	11:09:47
2	THE WITNESS: The best I can answer that	11:09:58
3	is, from a sales and customer service side, I do not	11:10:11
4	know. What was done through our people at the lab and	11:10:15
5	testing through Greg and our engineers, I -- I can't --	11:10:19
6	I don't know.	11:10:25
7	BY MR. CHAPUT:	11:10:29
8	Q Let's turn to the next page, please, this	11:10:31
9	is the page ending 125, which is another one-page	11:10:33
10	document with the title on the left side "da Vinci	11:10:39
11	EndoWrist Repair Process."	11:10:42
12	Do you recognize the repair process	11:10:45
13	document, Mr. Johnson?	11:10:46
14	A Yes.	11:10:55
15	Q Who at SIS wrote the repair process	11:10:55
16	document?	11:10:58
17	A Greg and myself.	11:10:58
18	Q And where did the content for the repair	11:11:12
19	process document come from?	11:11:14
20	A Greg, myself, and the team, the marketing	11:11:28
21	team at SIS.	11:11:30
22	Q Did Rebotix contribute to the content of	11:11:31
23	the repair process document?	11:11:34
24	A I do not believe so, no.	11:11:36
25	Q So in the repair process document that	11:11:56

1 we're looking at, there -- there's a first section that 11:12:05
2 refers to "initial service on an EndoWrist device" and 11:12:07
3 then a second section referring to "ongoing service." 11:12:11
4 Do you see those two sections? 11:12:16
5 A Yes. 11:12:17
6 Q And so am I correct in reading that to say 11:12:17
7 that SIS would reset the use counter on an EndoWrist 11:12:22
8 more than one time? 11:12:29
9 A We had the capabilities to do that, yes. 11:12:37
10 Q How many times would SIS reset the use 11:12:41
11 counter on an EndoWrist device? 11:12:45
12 MR. VAN HOVEN: Objection to form. 11:12:47
13 THE WITNESS: During our independent 11:12:54
14 studies, we had been through -- we had tested up to 50 11:12:56
15 sterilizations, so to answer your question, I guess 11:13:03
16 five. 11:13:12
17 BY MR. CHAPUT: 11:13:12
18 Q So you referred to SIS's independent 11:13:16
19 studies. 11:13:18
20 Are those -- are -- maybe -- maybe I'm 11:13:18
21 missing something. 11:13:22
22 Who performed those -- those studies? 11:13:22
23 A Rebotix. 11:13:25
24 Q Okay. So those aren't SIS studies? 11:13:30
25 A Correct. 11:13:32

1	A	We were doing the repair on the EndoWrist.	11:55:06
2	Q	You were still offering that in June of	11:55:08
3		2020?	11:55:12
4	A	I believe so, yes. I don't remember -- I	11:55:20
5		don't think we had started the recovery program yet, so	11:55:22
6		I think all those services at that point were still	11:55:25
7		wrapped around the Si.	11:55:27
8	Q	And there's no mention on here of the	11:55:30
9		da Vinci surgical system or the robot itself; is that	11:55:42
10		right?	11:55:42
11	A	Correct.	11:55:45
12	Q	Does SIS have the capability to perform	11:55:45
13		any repairs or services on the da Vinci robot itself?	11:55:47
14	A	No.	11:55:53
15	Q	Has SIS ever explored doing that?	11:55:53
16	A	Yes.	11:56:02
17	Q	When?	11:56:02
18	A	I don't remember specific dates, but over	11:56:08
19		the last couple years we've been approached by a number	11:56:15
20		of hospitals of asking what services we could help	11:56:18
21		provide on their da Vinci program.	11:56:22
22	Q	And what has the response been from SIS?	11:56:23
23	A	We currently do not have any programs for	11:56:29
24		the robot itself, but it is something that is an	11:56:32
25		ongoing -- we are looking into ongoing opportunities to	11:56:34

1 STATE OF CALIFORNIA)

2) ss.

3 COUNTY OF LOS ANGELES)

4 I, Vickie Blair, CSR No. 8940, RPR-CRR, in
5 and for the State of California, do hereby certify:

6 That, prior to being examined, the witness
7 named in the foregoing deposition was by me duly sworn
8 to testify as to the truth, the whole truth, and
9 nothing but the truth;

10 That said deposition was taken before me
11 at the time and place therein set forth, and was taken
12 down by me stenographically and thereafter transcribed
13 via computer-aided transcription under my direction and
14 is a true record of the testimony given;

15 I further certify I am neither counsel
16 for, nor related to, any party to said action, nor
17 interested in the outcome thereof;

18 IN WITNESS WHEREOF, I have hereto
19 subscribed my name this 5th day of November, 2022.

20
21
22
23
24


25 Vickie Blair, CSR No. 8940, RPR-CRR